

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

RAJENDRA D. BADGAIYAN, M.D.,

Plaintiff,

v.

Case No. 04-12031 JLT

**ANTHONY J. PRINCIPI, Secretary,
Department of Veterans' Affairs; President
and Fellows of HARVARD COLLEGE; and
Grace J. Mushrush, M.D.,**

Defendants

**AFFIDAVIT OF MARGARET L. DALE,
DEAN FOR FACULTY AND RESEARCH INTEGRITY,
HARVARD MEDICAL SCHOOL**

1. My name is Margaret L. Dale; I am employed as Dean for Faculty and Research Integrity at Harvard Medical School. This affidavit is based on my personal knowledge and upon my review of records kept in the ordinary course of business at Harvard Medical School.
2. My office, The Office of Faculty Affairs, monitors all charges of discrimination involving Harvard Medical School faculty and post-doctoral students including medical residents.
3. Sometime during September 2004, I first learned of Dr. Rajendra D. Badgaiyan's (the "Plaintiff" or "Dr. Badgaiyan") charges of discrimination from the news media report that the Plaintiff had filed the above-captioned lawsuit in the United States District Court for the District of Massachusetts. In January 2005, Harvard accepted service of the Complaint in this lawsuit.
4. Prior to October 2004, I had no knowledge that Dr. Badgaiyan had filed internal EEO grievances or appeals to the EEOC in connection with his residency with the United States Department of Veteran's Affairs (the "VA") at its Boston Health Care System's Brockton Campus; I never received any formal or informal notice that he had filed an EEO charge or that he had a grievance of any kind. Needless to say, neither I nor any Harvard representative participated in any proceedings regarding Dr. Badgaiyan's charge of discrimination before the VA or the EEOC.

5. In December 2005, I spoke with Dr. Grace Mushrush, and she informed me that she could not speak with me or with Harvard's attorneys about this case, on the instruction of counsel for the VA.
6. I have not been granted access by the VA to any of the personnel files, training records and other records concerning Dr. Badgaiyan that were in the VA's possession.
7. Between 1998 and December 2005, Harvard Medical School has had an affiliation agreement with the United States Department of Veteran's Affairs, which is entitled "Memorandum of Affiliation, School of Medicine Agreement Between Department of Veterans Affairs and the Undersigned School of Medicine." I understand that this is a standard VA form document that is used by the VA around the country.
8. Harvard Medical School did not enter into an agreement to act as an agent for the VA, nor has the Harvard sought to, or actually designated the VA as an agent of Harvard Medical School.
9. A small percentage of Harvard Medical School faculty members and fellows are employed and paid by Harvard. Still fewer work in Harvard facilities under Harvard's direct control. Rather, most of its faculty members and fellows are employed by one of the 18 medical facilities and teaching hospitals with which Harvard is affiliated.
10. From 1998 through the present, Grace Mushrush was not an employee of Harvard Medical School. She was not authorized to make appointments or terminate faculty or fellows in their appointments with Harvard Medical School.

Subscribed under the pains and penalties of perjury, this 25th day of September, 2006.



Margaret L. Dale
Associate Dean for Faculty Affairs
Harvard Medical School